

STATE BOARD OF ARBITRATION AND CONCILIATION
ANNUAL REPORT
FISCAL YEAR 1998

This report is made pursuant to 26 M.R.S.A. § 931 (1988 and Supp. 1997).

Administrative Developments. There was a single change in the complement of the Board this year. Alternate Chair G. Calvin Mackenzie, Distinguished Presidential Professor of American Government at Colby College, concluded his duties on the Board on February 9, 1998, chairing a panel which successfully conciliated two grievance matters involving the Rumford Fire Department and its employees. Cal had been a member of the Board since 1993 and all of the members enjoyed working with him. As of the date on which this report was drafted, no successor had been appointed to fill the position vacated by Cal.

On February 10, 1998, Governor King reappointed Alternate Chair Marilyn C. Ashcroft, a former municipal court judge and county attorney in New Mexico, Primary Employer Representative Walter J. Stilphen, Jr., Managing Director of Progressive Distributors, Inc., Primary Employee Representative Robert F. Bourgault, Labor Consultant, and Alternate Employer Representative H. Eugene Moyers, Director of Human Resources at Maine Maritime Academy, to new 3-year terms. Primary Chair Andrew M. Horton, an attorney with Verrill & Dana, Alternate Employer Representative Paul S. Hurlburt, retired management labor relations consultant, and Alternate Employee Representatives Shawn C. Keenan, General Counsel of the Maine Education Association, and Timothy J. Wooten, Maine State Employees Association Field Representative, continued to serve in their respective capacities. The Board is pleased with the Governor's reappointments and looks forward to the appointment of a new Alternate Chair. The competence of the Board's membership remains high, consisting of able neutral and partisan members known throughout the Maine labor relations community. The reappointment of members assures continuity and cohesiveness in the decision-making process; on the other hand, new appointees bring fresh perspective to our deliberations.

Roger A. Putnam of the Maine Labor Relations Board (MLRB) staff coordinated our activities and served as the prime liaison with our client community. MLRB Executive

Director Marc P. Ayotte continued to serve as the Board's general administrator and legal advisor. As in past years, we have been very pleased with the administrative support provided us by the MLRB staff.

Activities of the Board. One interesting development transpired in August of this year when the City of Belfast filed a Complaint for Declaratory Judgment and a Motion for Stay against the Board in Superior Court. The Board rarely is involved in litigation in the courts; however, participation in this case was important in order to safeguard the Board's jurisdiction. The City's complaint sought the Court's ruling on whether polygraph evidence should be admissible in a grievance arbitration proceeding. The City's Motion for Temporary Restraining Order, seeking resolution of the issue prior to the scheduled arbitration proceeding, was denied by the Court. The Court held that the parties had bargained for the Board's exercise of discretion on grievance matters and, were the Court to grant the Plaintiff's Motion, the Court would be substituting its discretion for that of the Board, contrary to the crux of the parties' agreement. Subsequently, the case was heard by the Board, rendering the matter moot, and the City withdrew its complaint.

The 23 total cases filed this year compares with 27 total filings in the previous fiscal year. During the preceding 20 years, the year with the greatest number of filings (75) was FY 1987 and the fewest cases (16) were filed in FY 77. During that period, an average of 41.9 cases were filed each year.

As in past years, the bulk of the Board's case load involved hearing and resolving grievance disputes requiring interpretation of collective bargaining agreements. Grievances are disputes that arise due to differing interpretations of the provisions of collective bargaining agreements.

Of the 23 requests for services received this year, the 16 filings involving grievance arbitration matters were as follows:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Issue</u>
AFSCME, Council 93	Belfast	Discharge
AFSCME, Council 93	Biddeford	Discharge
AFSCME, Council 93	Saco	Promotion

AFSCME, Council 93	Saco	Vacation
Bridgton Fed'n of Public E/ees	Bridgton	Vacation accumulation
Bridgton Fed'n of Public E/ees	Bridgton	Shift rotation
IUMSWA/IAM*	Bath	Non-selection
Local 1601, IAFF	Rumford	Suspension
Local 1601, IAFF	Rumford	Verbal warning
MSAD 34 Education Ass'n	MSAD 34 Bd. of Dir's	Holiday pay
South Portland Firefighters Ass'n	South Portland	Admin. leave
Teamsters Union Local 340	Bucksport	Discharge
Teamsters Union Local 340	Cumberland County	Discharge
Teamsters Union Local 340	Presque Isle	Discrimination/ Non-promotion
Teamsters Union Local 340	Millinocket	Overtime
Topsham Employees Ass'n	Topsham	Wage plan

*Industrial Union of Marine and Shipbuilding Workers of American, International Association of Machinists and Aerospace Workers of America

The Board also received six requests for fact-finding services this year. The latter type of case arises when parties, with or without the assistance of a mediator, are unable to reach accord on an initial or successor collective bargaining agreement. The following requests for fact-finding were received this year:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Result</u>
AFSCME, Council 93	Houlton	Report issued
AFSCME, Council 93	Lewiston	Withdrawn*
Saco Firefighters Ass'n	Saco	Withdrawn*
Saco Valley Ed. Ass'n	MSAD 6 Bd. of Dir's	Conciliated
MSAD 46 Ed. Ass'n	MSAD 46 Bd. of Dir's	Pending
Topsham Employees Ass'n	Topsham	Conciliated

*Cases filed, but withdrawn prior to fact-finding, indicate that accord on a new collective bargaining agreement was reached by the parties.

Conciliation is a process during which the partisan members of the assigned Board panel, the Employee and Employer Representatives, meet with "their" respective party,

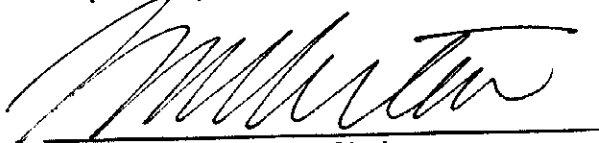
assess that party's real needs and concerns in the matter at issue, and help the party in determining the relative strengths and weaknesses of their position. The partisan members then caucus together to determine whether an agreed-to resolution is possible and, if so, work with the parties in achieving settlement. The Board believes that parties resolving their dispute through mutual understanding and accord is far preferable to having a solution be imposed by fiat of a third party; accordingly, we attempt to conciliate every case presented to us. We are particularly pleased to report the two conciliated fact-findings mentioned above because they represent situations where, through the diligent efforts of the negotiators and the assistance of the panel, accord was reached on new collective bargaining agreements, fostering long-term improvement in labor-management relations between the parties.

Interest arbitration is the final step of the statutory dispute resolution mechanism under the various public sector labor relations laws. The major difference between fact finding and interest arbitration is that, in the latter process, the panel's determinations are binding on the parties, except in regard to wages, pensions and insurance. The Board received one request for interest arbitration this fiscal year and that matter is pending at this time.

The Board of Arbitration and Conciliation is pleased with its achievements, particularly with its reputation for fairness in the labor relations community. Our mission is to improve the labor-management climate in the public sector by providing high quality professional services to our clients, helping in the resolution of their disputes.

Dated at Augusta, Maine, this 1st day of July, 1998.

Respectfully submitted,



Andrew M. Horton, Chair
State Board of Arbitration and
Conciliation



Marc P. Ayotte, Executive Director
Maine Labor Relations Board